IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

Bail Appl..No. 5336 of 2007()

PETITIONERS : ACCUSED:

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1. LATHESH KUMAR, S/O.SIVADASAN,
AGED 30 YEARS, SIVA SAILAM HOUSE,
BALUSSERRI POST, BALUSSERI.

2. SHIVALATHA, AGED 28 YEARS,
D/O.SIVADAS, SIVASAILAM HOUSE,
BALUSSERI POST, BALUSSERI.

3. MALATHI, W/O.SIVADAS, AGED 54 YEARS,
SIVA SHAYILAM HOUSE,, BALUSSERI POST, BALUSSERI.

4. SIVADAS, AGED 65 YEARS,
SIVASAILAM HOUSE, BALUSSERI POST, BALUSSERI.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA

RESPONDENTS: COMPLAINANT AND STATE:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5336 of 2007

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Dated this the 4th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are the husband, sister-in-law and parents-in law respectively of the defacto complainant. The crime has been registered, inter alia, under Section 498A I.P.C. on the basis of a complaint filed by the defacto complainant before the learned Magistrate, which complaint was referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The marriage had taken place only in early 2005. There are no children born in the wedlock. The learned counsel for the petitioners submits that vexatious allegations are being raised against the petitioners with oblique motive. At any rate, exaggerated and fanciful allegations raised by the defacto complainant may not expose the petitioners to suffer the undeserved trauma of arrest and incarceration in prison. They are willing to co-operate with the investigation. Subject to any conditions, anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor does not seriously oppose the application. Appropriate conditions may be imposed, he submits. I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. Arrest and incarceration of the petitioners is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 10.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 11.9.07 and 12.9.2007 and thereafter shall appear on all Mondays and Fridays between

10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 10.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 10.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 10.9.2007.

(R. BASANT)
Judge

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